

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JANUARY 14, 2008

COMMONWEALTH OF VIRGINIA

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At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2007-00298

Ex Parte: In the matter of
Adopting Revisions to the
Rules Governing Life Insurance
and Annuity Replacements

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposed amendment to Chapter 30 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Life Insurance and Annuity Replacements," which amends the Rules at 14 VAC 5-30-30.

The amended Rules add additional language in Subdivision A 4 of 14 VAC 5-30-30 dealing with Exemptions. The additional language provides an exemption from the Rules for term conversions where the existing insurer and the replacing insurer are corporate affiliates. This revision is consistent with the most recent National Association of Insurance Commissioners (NAIC) "Life Insurance and Annuities Replacement Model Regulation."

The Commission is of the opinion that the amended Rules submitted by the Bureau of Insurance should be considered for adoption.

THEREFORE, IT IS ORDERED THAT:

(1) The amended Rules entitled "Rules Governing Life Insurance and Annuity Replacements," at 14 VAC 5-30-30, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of the amended Rules shall file such comments or hearing request on or before February 29, 2008, with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2007-00298. Interested persons desiring to submit comments electronically may do so by following the instructions available at the Commission's website:
<http://www.scc.virginia.gov/caseinfo.htm>.

(3) If no request for a hearing on the adoption of the amended Rules is filed on or before February 29, 2008, the Commission, upon consideration of any comments submitted in support of or in opposition to the amended Rules, may adopt the Rules as amended by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the amended Rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Jacqueline K. Cunningham, who forthwith shall give further notice of the proposed adoption of the amended Rules by mailing a copy of this Order, together with the proposed amendments, to all companies licensed by the Commission to write life insurance, variable life insurance, annuities, or variable annuities in Virginia.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed amendments, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposed amendments on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

Project 1121 - Proposed

STATE CORPORATION COMMISSION, BUREAU OF INSURANCE

Life Insurance and Annuity Replacements

14VAC5-30-30. Exemptions.

A. Unless otherwise specifically included, this chapter shall not apply to:

1. Credit life insurance;

2. Group life insurance or group annuities where there is no direct solicitation of individuals by an agent. Direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of 14VAC5-30-70;

3. Group life insurance and annuities used to fund prearranged funeral contracts;

4. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer pursuant to a plan filed and approved by the commission; or, when a term conversion privilege is exercised among corporate affiliates;

5. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

6. a. Policies or contracts used to fund (i) an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act (ERISA) (29 USC §1001 et seq.); (ii) a plan described by 26 USC §§401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer; (iii) a governmental or church plan defined in 26 USC §414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under 26 USC §457 of the Internal Revenue Code; or (iv) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

b. Notwithstanding subdivision a of this subsection, this chapter shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an agent for the purchase of a policy or contract. As used in this subsection, direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;

7. Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

8. Existing life insurance that is a nonconvertible term life insurance policy that will expire in five years or less and cannot be renewed;

9. Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter; or

10. Structured settlements.

B. Registered contracts shall be exempt from the requirements of 14VAC5-30-51 A 2 and 14VAC5-30-55 B with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

Bonnie P. Salzman (Signature of certifying official)

Name and title of certifying official: Bonnie S. Salzman, Associate General Counsel

Name of agency: State Corporation Commission

Date: 1/8/08